IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6258 of 2007()

CRIME NO. 81/2006 OF HARIPPAD POLICE STATION

PETITIONER/ACCUSED

T.K.G.PANICKER, S/O KOCHUPILLAI PANICKER
AGED 52 YEARS, MITTU COTTAGE,
AKOMKUDI MURI, NANGIARKULANGARA,
ALAPPUZHA DISTRICT.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA,REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.6258 of 2007

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Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable, inter alia, under Sections 465 and 471 IPC. The petitioner faced indictment in a prosecution under Section 138 of the Negotiable Instrument Act. In that prosecution, he produced three documents as defence exhibits. Those documents were not accepted by the Court concerned. The complainant later filed a complaint alleging that those documents were forged and later produced before the Court where crime was registered. Investigation is in progress. The expert of the Forensic Science Laboratory, it is submitted, has now opined that the signature appearing in the document is not that of the de facto complainant. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner asserts that the documents were received by him from the de facto complainant. The de facto complainant may have affixed an incorrect or different signature. The petitioner is not responsible for the same. In any view

of the matter, the petitioner has already been convicted and sentenced under Section 138 of the Negotiable Instrument Act. The entire amounts payable have been paid also. The petitioner may not be subjected to further harassment and vexation, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the culpable conduct needs to be frowned upon and disapproved. The forged documents are produced before a court. There is absolutely no circumstance in this case justifying invocation of the extraordinary equitable discretion under Section 438, submits the learned Public Prosecutor.

4. At this early stage of investigation, I shall carefully avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that on an anxious consideration of all the relevant inputs, I am persuaded to agree that the opposition by the learned Public Prosecutor is justified. I find no features in this case that can persuade me to invoke the extraordinary equitable discretion under Section 438 Cr.P.C. I am satisfied that this is a fit case where the petitioner must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

5. In the result, this petition is dismissed. Needless to say that if the petitioner appears before the Investigating Officer or the learned Magistrate having jurisdiction and applies for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE